

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

IN THE MATTER OF THE DIVISION'S
ANNUAL REVIEW AND
EVALUATION OF ELECTRIC
LIFELINE PROGRAM, HELP

Docket 03-035-01

IN THE MATTER OF HELP, ELECTRIC
LIFELINE PROGRAM EVALUATION

Docket No. 04-035-21

**DIRECT TESTIMONY OF CHRISTINE R. KEYSER
ON BEHALF OF
THE UTAH COMMITTEE OF CONSUMER SERVICES**

16 September 2005

19 A. My testimony is supported by background information and analyses
20 provided by the Public Service Commission's 1999 Report and Order in Docket
21 No. 97-035-01 and 2000 Report and Order in Docket No. 99-035-10; Division of
22 Public Utilities' annual and status reports; PacifiCorp's written comments;
23 Committee's 2000 Rebuttal Testimony and written comments; Quantec's 2005
24 Report; Jerrold Oppenheim's 2004 Utility Ratemaking Report for Low- and Fixed-
25 Income New Yorkers; and Light and Truth's 2005 Direct Testimony and public
26 presentation.

27 **Q. WHAT IS THE HELP PROGRAM?**

28 A. PacifiCorp's P.S.C.U. Tariff No. 46 effective March 1, 2005 provides for a
29 Low Income Lifeline Program – Residential Service Optional for Qualifying
30 Customers, commonly referred to as the HELP program. HELP provides for a
31 fund from which eligible residential customers who apply are given a credit upon
32 their monthly Utah Power electric bill. All Utah Power customers, except special
33 contracts, contribute to the fund. HELP was first authorized by the Commission's
34 May 24, 2000 Report and Order in Docket No. 99-035-10, based upon the findings
35 and conclusions therein and the findings and conclusions in the Commission's
36 March 4, 1999 Report and Order in Docket No. 97-035-01. HELP was
37 implemented by the Commission's August 30, 2000 Report and Order in Docket
38 No. 00-035-T07, which added Schedules 3 and 91 to PacifiCorp's P.S.C.U. Tariff

39 No. 43. HELP has been reauthorized in each general rate case report and order
40 issued since May 2000, including the most recent, Docket No. 04-035-42.

41 **Q. DOES THE COMMITTEE BELIEVE THAT THE COMMISSION**
42 **SHOULD ORDER A CONTINUATION OF THE HELP PROGRAM?**

43 A. Yes. The Committee believes that the HELP program is a beneficial
44 exercise of the Commission's regulatory authority to establish just and reasonable
45 rates consistent with the requirements of Utah law. The Committee contends that
46 the HELP program was not intended to be static, to continue only if the program in
47 its original form precisely met every possible standard that any party specified and
48 against which any party desired to measure the program's "success". The
49 Committee is not aware of any utility rate or tariff that is unchanging or measured
50 in such a Draconian manner. The Commission intended that the program be
51 reviewed and if necessary, modified or amended. The Committee contends that
52 the public and ratepayer interests that compelled the Commission to implement
53 HELP are equally compelling today. It is for this reason that the Committee
54 formally approved the Stipulation filed with the Commission on August 4, 2005.

55 **Q. PLEASE SUMMARIZE THE COMMITTEE'S**
56 **RECOMMENDATIONS.**

57 A. The Committee of Consumer Services recommends that the Commission
58 continue the HELP Program by approving and adopting the Stipulation in its

entirety. The HELP Program continues to be in the public interest, it is efficient and simple to administer, the need for the program is real and unmet by direct-payment programs, the program targets only low-income households and does not raise rates for low-income households based upon electricity consumption and the program's benefits continue to offset any impacts on the ratemaking objective. With the state's growing number of families and individuals living below poverty level, the Committee recommends the Commission continue the Program as modified in the Stipulation.¹

ANALYSIS OF THE HELP PROGRAM

Q. WHAT IS THE COMMITTEE'S OVERALL DUTY WITH RESPECT TO RATES AND THE RATEPAYERS THE COMMITTEE REPRESENTS?

A. The Committee's duty is to advocate positions most advantageous to a majority of residential consumers and small commercial enterprises. The Committee determines the positions that it advocates by assessing the impact of utility rate changes and other regulatory actions on its constituents. With regard to the HELP program, the Committee realizes that one larger group of residential and small commercial consumers pay a surcharge to assist another smaller group of

¹ The U.S. Census Bureau, Utah Census 2000, indicates that 9.4% of individuals and 6.5% of families live below the Federal poverty level. The U.S. Census Bureau, Utah Census 2004, indicates that 10.9% of individuals and 8.2% of families live below the Federal poverty level.

77 residential consumers.

78 **Q. DOES THIS FACT ABOUT HELP CONCERN THE COMMITTEE?**

79 **A.** While it is a concern, the Committee's assessment of the HELP program, as
80 originally designed and as modified by the Stipulation to which the Committee is a
81 signatory, is advantageous to the majority of its constituents. One reason is that to
82 fund HELP, **all** PacifiCorp customers, other than HELP program participants and
83 the very few special contracts, pay a monthly surcharge determined in Schedule
84 No. 91. Different customer classes pay varying amounts; for example, residential
85 customers contribute \$0.12 per month. Residential customers participating in
86 HELP, who are a part of the majority that the Committee represents, benefit from
87 the assistance of **all** classes of PacifiCorp customers. The burden is fairly shared
88 by all ratepayers.

89 **Q. ARE THERE OTHER ADVANTAGES TO THE COMMITTEE'S**
90 **CONSTITUENTS FROM THE HELP PROGRAM THAT ALLAY THE**
91 **COMMITTEE'S CONCERNS?**

92 **A.** Yes. Electric energy costs as a percentage of household income, or the
93 "energy burden", has an inordinate and disparate economic impact upon Utah's
94 low-income families earning no more than 125% of the Federal poverty level. As
95 stated by the Commission in the March 4, 1999 Report and Order in Docket No.
96 97-035-01, "[we] find that the cost of energy is disproportionately large for low-

97 income households and that there are many such households in Utah Power's
98 service territory." This was true in March 1999 when the Commission first
99 considered an electric lifeline rate in its present form. It was true in May 2000
100 when the Commission authorized HELP and it is true today. When the Committee
101 assesses the impact of utility rates on residential customers and small commercial
102 customers, it understands that those least able to adjust financial resources to pay
103 utility bills pay a greater percentage of total available income. The HELP program
104 is one of the regulatory methods to more fairly balance the economic impact of
105 electric charges among all customers.

106 **Q. IS THE COMMITTEE AWARE OF OTHER EXAMPLES WHERE A**
107 **SIMILAR RATE STRUCTURE HAS BEEN ACCEPTED BY THE**
108 **COMMISSION AS A JUST AND REASONABLE RATE?**

109 A. Yes. The HELP program is similar to granting an industrial class customer
110 a special contract rate that is lower than other industrial class customers because
111 the higher class rate is alleged to hold the risk of an inordinate, adverse economic
112 impact. In a particular case, the special contract industrial customer predicted that
113 higher class-wide electric rates held a potential for reduced operations and
114 foregone expansion. The risk was in part blamed upon adverse global economic
115 conditions due to improper world trade practices. Even though the negative
116 impact was only predicted, and the positive impact of the lower rate only
117 aspirational (not unlike the hoped for benefits to collection costs, default rates and

118 termination costs to come from HELP), the Commission approved this special
119 rate. Providing such rates, according to some, requires that all customer classes
120 subsidize a special contract industrial customer. However, one may also view the
121 special contract and the HELP surcharge and credit, as consistent and just and
122 reasonable because both balance all customers' interests in the cost of service, rate
123 impacts, and overall benefit to customers and the state of Utah. And the reasons
124 for the conditions addressed by the rate, poverty in Utah or the local impact of
125 global trade, are conditions that the Commission may and should consider.²

126 **Q. DOES IT MAKE A DIFFERENCE TO THE COMMITTEE'S**
127 **SUPPORT OF HELP THAT THOSE RESIDENTIAL CUSTOMERS WHO**
128 **RECEIVE A BENEFIT IS A NARROWLY DEFINED GROUP?**

129 A. Yes. Under Schedule No. 3, using HELP funds, PacifiCorp provides a
130 monthly credit to eligible low-income electric customers who apply for Help.
131 Schedule No. 3 sets forth the eligibility criteria and the terms and conditions of the
132 monthly credit. HELP also provides the first layer of credit to a customer who
133 uses life support equipment and is eligible for the Life Support Assistance Credit.
134 A customer is eligible for HELP if they earn no more than 125% of the federal
135 poverty level, or qualify for the Utah Home Energy Assistance Target Program
136 (HEAT). HEAT is a statutorily authorized program to assist certain low-income
137 families and individuals in the payment of home energy costs from any source by

² See Utah Code §54-3-1.

138 providing direct payments for home energy costs to the customer and the utility
139 during the winter months. Utah Code §9-12-101 *et seq.* HELP is a narrowly
140 targeted utility lifeline assistance program providing a fixed monthly credit only to
141 those households demonstrating eligibility under defined and objective criteria.
142 The eligibility criteria, income no more than 125% of federal poverty level
143 income, is a traditional and well-established criteria for other utility lifeline rates
144 such as telephone and natural gas. HELP also complements the HEAT program
145 by bridging assistance between seasonal high-energy costs and the year-round
146 energy burden.

147 **Q. HOW ELSE IS THE HELP PROGRAM LIMITED IN SCOPE?**

148 A. As a fixed amount, direct assistance program not tied to electricity
149 consumption, HELP does not require special pricing of electricity. Accordingly, a
150 HELP participant pays the same rate per kW as any other residential customer.
151 Schedule No. 3 recognizes and rationally connects the inordinate economic impact
152 of residential rates upon Schedule No. 3 customers and provides a credit that
153 ameliorates that impact. The amount of the credit provided to a HELP Schedule
154 No. 3 customer and the surcharge upon a Schedule No. 1 residential customer is an
155 authorized and proper regulatory method of determining a just and reasonable rate.
156 Just like the special contract industrial customer, the rate for a customer category
157 that arises from the application of special considerations as permitted by Utah law,

158 is just and reasonable.³

159 **Q. DID THE COMMITTEE SUPPORT THE HELP PROGRAM IN THE**
160 **BEGINNING?**

161 A. Yes. In 1997, the Committee supported the lifeline program proposed by
162 Salt Lake Community Action Program (SLCAP), the Crossroads Urban Center
163 (Crossroads) in Docket No. 97-035-01. The Committee supported the lifeline
164 program that is HELP, which the Commission authorized in Docket No. 99-035-
165 10.

166 **Q. UPON WHAT FINDINGS AND CONCLUSIONS DID THE**
167 **COMMISSION AUTHORIZE THE HELP PROGRAM?**

168 A. The orders authorizing and implementing the HELP lifeline electric rate
169 have noted that the program is permitted by Utah Code §54-3-1 and the Utah
170 Supreme Court's decision in *Mountain States Legal Foundation v. Utah Public*
171 *Service Commission*, 636 P.2d 1047 (Utah 1981). In its May 24, 2000 Report and
172 Order in Docket 99-035-10, the Commission relied upon the findings and
173 conclusions from Docket No. 97-035-01, and considering additional evidence, the
174 Commission found and concluded that it is in the public interest to have an electric
175 lifeline program. The Commission concluded that the utility, all utility customers
176 and HELP recipients benefit in general through reduced cost to the utility of

³ Utah Code §54-3-1 provides a non-exclusive list of elements to a just and reasonable rate.

collections, termination, reconnections, and arrearages, and that HELP was a simply-designed program with relatively modest goals and is analogous to the lifeline program for telephone service. The Commission found that the “very small increase” in bills to all other rate classes was exceeded by the benefits to Schedule No. 3 customers. Among the benefits identified was a 17% reduction in the average monthly utility bill for an eligible HELP residential customer, assisting persons in retaining electric service and therefore housing. The evidence, upon which the Commission based its findings of fact and conclusions of law in Docket No. 97-035-01 and Docket No. 99-035-10, continues to be an accurate and relevant description of the public interests served by the HELP program.

Q. DID THE COMMITTEE DISAGREE WITH ANY PART OF THE HELP PROGRAM?

A. The Committee supported the electric lifeline proposal and recommended language changes regarding the issuance of reports and the methods of auditing the program. These suggestions pertained to the administration of HELP.

Q. DID THE COMMISSION SET PERFORMANCE MEASURES FOR THE HELP PROGRAM?

A. In its March 4, 1999 Report and Order in Docket No. 97-035-01, the Commission adopted a set of criteria by which to analyze HELP. The Commission required that the need for the program be real and unmet by direct-

197 payment programs. The program must target only low-income households and it
198 should not raise rates for low-income households based upon electricity
199 consumption. The benefits of the program should offset negative impacts on
200 ratemaking objectives, and the benefits should be sufficient to overcome the
201 Commission's "reluctance to effectuate social policy by means of altered
202 electricity rates." Finally, the program should be easy and inexpensive to
203 administer. In Docket No. 99-035-10, the Commission ordered the Division of
204 Public Utilities to monitor the program and to thoroughly audit it within three
205 years. More specifically, the Commission ordered that collections or surcharge
206 amounts be recalculated to correct for any over or under collections within the
207 limits of the \$1,850,000.00 cap. Furthermore, the Commission stated its intent to
208 adjust the lifeline credit or the lifeline surcharge as necessary to account for
209 reduced or increased applications for assistance.

210 **Q. WHAT WAS THE OUTCOME OF THE DIVISION'S REVIEWS?**

211 A. As required by the Commission in its August 30, 2000 Report and Order in
212 Docket No. 00-035-T07, in which the Commission approved Schedule No. 3 for
213 the Low Income Lifeline Program and Surcharge for Funding, the Division
214 evaluated Help's effectiveness and success against Division developed standards
215 and measures. The Division submitted to the Commission HELP evaluation
216 reports for Years 1, 2 and 3. A third party consulting firm, Quantec, also
217 evaluated HELP and submitted its report on January 27, 2005. The Stipulation

before this Commission reflects the Committee's position that under the standards and measures utilized by the Division in light of the criteria the Commission adopted and applied to judge the merits of HELP, HELP remains in the public interest and results in a just and reasonable rate.

Q. DOES THE COMMITTEE BELIEVE THAT THE HELP PROGRAM MEETS THE COMMISSION'S GOALS?

A. The Commission opened Docket No. 03-035-01 and Docket No. 04-035-21 to consider the Division's annual reports. Following its Year 3 report, the Division retained Quantec to further evaluate HELP. Quantec conducted its evaluation under Docket No. 04-035-21. Quantec's January 27, 2005 final report and the Division's comments and analysis of the report are now before the Commission. Currently, annual collections exceed the recommended cap, annual collections exceed the total annual credit, and there is a substantial account balance. While the Division's evaluation of HELP is inconclusive, nothing in any of its reports, or in Quantec's report, constitutes a reasonable evidentiary basis upon which to reverse the Commission's findings and conclusions in Docket No. 97-035-01 and Docket No. 99-035-10. Furthermore, in each PacifiCorp general rate case since August 2000, and in other dockets, notably Docket No. 03-035-09, *In the Matter of the Complaint of Paul F. Mecham v. Utah Power & Light*, the Commission has found that HELP is properly established and funded. Overall, the Committee concludes from the Division's reports that HELP remains a necessary

239 and viable means to mitigate the economic impact of electric utility charges upon
240 customers who are eligible for HELP. In addition, the Committee is convinced
241 that HELP has met the substantive performance standards established by the
242 Commission.

243 **Q. HAS THE COMMITTEE CONSIDERED PAUL MECHAM'S**
244 **ANALYSIS OF THE HELP PROGRAM?**

245 A. Yes. Mr. Mecham presented his views to the Committee on several
246 occasions, most recently in July of this year, 2005. While the Committee
247 understands the political and philosophical objections Mr. Mecham has to HELP
248 and similar programs, the Committee disagrees with his conclusion that HELP is
249 to be eliminated because there is not a precisely measurable, one-to-one
250 cost/benefit to ratepayers that provides "value" as Mr. Mecham contends is
251 required.

252 **Q. HAS THE COMMITTEE CONSIDERED THOSE STANDARDS**
253 **THAT MR. MECHAM APPLIES TO THE HELP PROGRAM?**

254 A. Yes. In its March 4, 1999 Report and Order in Docket No. 97-035-01, the
255 Commission acknowledged that some benefits that certain parties contended
256 would flow from HELP were uncontested but speculative. Such benefits included
257 a reduction in uncollectible accounts, returned checks, and service shut offs. The
258 Commission acknowledged these benefits as not unreasonable expectations from

HELP if customers are able to retain electric service more easily with than without
HELP. Mr. Mecham insists that because there is not absolute proof these benefits
are realized, the program is a failure. However, the Committee does not interpret
these expectations as the Commission's statement that approval of HELP was
conditioned upon HELP's proponents proving by Mr. Mecham's essentially
"beyond a reasonable doubt" standard, that each of these hoped for results where
in fact realized. The Committee believes that those benefits the Commission
identified as speculative but consequential were not intended as the standards and
measures against which the success of HELP was to be judged. The Committee
believes that it is inaccurate and improper to require precise and absolute
attribution of secondary benefits solely to HELP as the determining measures of
the program's success.

Q. CAN THE HELP PROGRAM BE IMPROVED?

A. Yes. The Committee, like all of the signatory parties to the Stipulation,
believes it is necessary to modify HELP to more closely balance the amounts
collected under Schedule 91, the credits applied under Schedule 3, and the current
account balance due to collections exceeding credits. By adjusting the rate and
credit structure to reflect actual experience since 2000, the Stipulation does what
the Commission expected based upon the annual reviews and the audits of HELP.
The Committee agrees with PacifiCorp's analysis of the Stipulation contained in
Daniel C. Peterson's testimony.

280 **Q. WILL YOU SUMMARIZE YOUR TESTIMONY?**

281 A. As in 1999 and 2000, community based assistance and government social
282 services programs in 2005 are inadequate to fill the need for direct assistance
283 aiding low-income families in paying their energy bills. The HELP program, no
284 less than the HEAT program, narrowly targets those in need by establishing a just
285 and reasonable rate for electricity for **all** PacifiCorp customers. Continuation of
286 the HELP program should not be dependent upon a specific outcome of only one
287 separately stated performance measure. Rather, the Commission should consider
288 the program as a whole to ensure that rates and services continue to be just and
289 reasonable. The Committee believes that upon such a review and by considering
290 the modifications recommended by the Stipulation, the continuing merits of the
291 HELP program are apparent.

292 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

293 A. Yes, it does.